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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,154	03/24/2005	Yoshihisa Umeno	10873.1582USWO	1870
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EXAMINER				
ZEC, FILIP				
ART UNIT		PAPER NUMBER		
3785				
MAIL DATE		DELIVERY MODE		
03/21/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/529,154

Applicant(s)

UMENO, YOSHIHISA

Examiner

Filip Zec

Art Unit

3785

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 March 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(g).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-3,5-8 and 10.

Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

/J J Swann/
Supervisory Patent Examiner, Art Unit 3785

/Filip Zec/
Examiner, Art Unit 3785

Continuation of 13. Other: Newly amended claim 1 adds the limitation from claim 7. Previously, claim 7 was rejected under 103(a) over Kim in view of Lazar and Clark, and further in view of Howe, thus present claim 1 would be rejected under 103(a) over Kim in view of Lazar, Clark and Howe, or alternatively, over Kim in view of Lazar and Clark.

In reference to the applicant's argument on page 6, that Howe is directed to a gas chromatographic oven using symmetrical flow of preheated premixed ambient air and does not contemplate the advantages achieved by requiring the relationship of claim 1 within the cooling device of claim 1 and one skilled in the art would not look to modify the cooling device of Kim, Lazar and Clark to achieve the above features of claim 1 based on Howe, in order to advantageously create a more subtle temperature gradient throughout the chamber by way of enhanced mixing, Howe provides a more predictable environment within the enclosure for more predictable results. The oversized fan aperture with a plurality of proportions with said range, as taught by Howe, provides a customized flow pattern, and thereby, further satisfies designers criteria to afford better results.

Additionally, where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). Also, the normal desire of scientists or artisans to improve upon what is already generally known provides the motivation to determine where in a disclosed set of percentage ranges is the optimum combination of percentages Peterson, 315 F.3d at 1330, 65 USPQ2d at 1382. Since Kim in view of Lazar and Clark disclose an opening with a fan which blows the air in and out of the cooling compartment. Therefore, the area of the aperture and the diameter of the fan are recognized result effective variables, i.e. a variable which achieves a recognized result. In this case, the recognized result is that a larger area of the aperture would result in a reduction of the discharged flow, while a smaller area would result in the weakened inflow of air into the cooling compartment. Therefore, since the general conditions of the claim, i.e. that the fan is located behind the aperture in the evaporating chamber, were disclosed in the prior art by Kim in view of Lazar and Clark, it is not inventive to discover the optimum workable range by routine experimentation, and it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the aperture disclosed by Kim in view of Lazar and Clark having an aperture area S defined by $1.5\pi(R/2).sup.2$ less than or equal to S less than or equal to $2\pi(R/2).sup.2$